

REMARKS/ARGUMENTS

The communication responds to the Office Action of August 21, 2008, in which the Examiner rejected claims 19-45. Claims 19-45 are pending. Claim 32 has been amended herein to correct a clerical error, further identifying that the "soft gel" is a soft gel capsule. No new matter is added by way of this amendment.

Rejection under Double Patenting

Claims 19-45 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 11/470,527.

This rejection is overcome at least for the following reasons.

Applicants respectfully submit that, as the instant rejection is a provisional rejection based on a pending application that the terminal disclaimer should be required of Application No. 11/470,527 over the instant application upon allowance of the 11/470,527 application. However, in the interests of furthering prosecution, applicants hereby provide a terminal disclaimer of the instant application over the 11/470,527 application as is provided for under MPEP 804.02. The rejection being now moot, withdrawal of the rejection and allowance of the claims are respectfully requested.

Claims 19-45 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,784,206.

The rejection is overcome at least for the following reasons.

A terminal disclaimer is provided herewith disclaiming the terminal portion of a patent arising under this application over U.S. patent 6,784,206 as is provided for under MPEP 804.02. The rejection being now moot, withdrawal of the rejection and allowance of the claims is respectfully requested.

Conclusion

This application now stands in allowable form and reconsideration and allowance is respectfully requested.

This response is being submitted on or before November 21, 2008, making this a timely response. It is believed that no fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

Respectfully submitted,

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